

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	8:01CR163
	)	
Plaintiff,	)	
vs.	)	<b>ORDER</b>
	)	
ROBERT E. WATKINS,	)	
	)	
Defendant.	)	

Defendant has filed a notice of appeal from this court's order (filing 239) denying Defendant's motion (filing 237) for a fact-finding hearing regarding the conduct of his former attorney. Defendant's motion for hearing alleged that his counsel did not file a direct appeal, as Defendant directed him to do.

Pursuant to F.R.A.P. 24(a), and construing the papers liberally, I conclude that Defendant's appeal is not taken in good faith, as the electronic court file in this case clearly indicates that defense counsel filed a notice of appeal (filing 169) and the Eighth Circuit Court of Appeals filed an opinion affirming this court's judgment (filing 194). Further, Defendant's motion complaining about his counsel was not styled as a 28 U.S.C. § 2255 motion, and even if it had been so characterized, it would probably have been untimely. Accordingly,

IT IS ORDERED:

1. Defendant's appeal is not taken in good faith;
2. Defendant is not entitled to proceed in forma pauperis on appeal.

June 29, 2006

BY THE COURT:

*s/ Richard G. Kopf*  
United States District Judge